

§ 1503.431

on a party's attorney of record or a party's designated representative is service on the party.

§ 1503.431 Certification of documents.

(a) *General.* This section governs each document tendered for filing with the Enforcement Docket Clerk under this part.

(b) *Signature required.* The attorney of record, the party, or the party's representative must sign each document tendered for filing with the Enforcement Docket Clerk, or served on the ALJ, the TSA decision maker on appeal, or each party.

(c) *Effect of signing a document.* By signing a document, the attorney of record, the party, or the party's representative certifies that he or she has read the document and, based on reasonable inquiry and to the best of that person's knowledge, information, and belief, the document is—

(1) Consistent with the rules in this part;

(2) Warranted by existing law or that a good faith and nonfrivolous argument exists for extension, modification, or reversal of existing law;

(3) Not unreasonable or unduly burdensome or expensive, not made to harass any person, not made to cause unnecessary delay, not made to cause needless increase in the cost of the proceedings, or for any other improper purpose; and

(4) Supported by evidence, and any denials of factual contentions are warranted on the evidence.

(d) *Sanctions.* On motion of a party, if the ALJ or TSA decision maker finds that any attorney of record, the party, or the party's representative has signed a document in violation of this section, the ALJ or the TSA decision maker, as appropriate, will do the following:

(1) Strike the pleading signed in violation of this section.

(2) Strike the request for discovery or the discovery response signed in violation of this section and preclude further discovery by the party.

(3) Deny the motion or request signed in violation of this section.

(4) Exclude the document signed in violation of this section from the record.

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(5) Dismiss the interlocutory appeal and preclude further appeal on that issue by the party who filed the appeal until an initial decision has been entered on the record.

(6) Dismiss the appeal of the ALJ's initial decision to the TSA decision maker.

Subpart F [Reserved]

Subpart G—Rules of Practice in TSA Civil Penalty Actions

§ 1503.601 Applicability.

(a) This subpart applies to a civil penalty action in which the requirements of paragraphs (a)(1) through (a)(3) of this section are satisfied.

(1) There is an alleged violation of a TSA requirement.

(2) The amount in controversy does not exceed—

(i) \$50,000 if the violation was committed by an individual or a small business concern;

(ii) \$400,000 if the violation was committed by any other person.

(3) The person charged with the violation has requested a hearing in accordance with § 1503.427 of this part.

(b) This subpart does not apply to the adjudication of the validity of any TSA rule or other requirement under the U.S. Constitution, the Administrative Procedure Act, or any other law.

§ 1503.603 Separation of functions.

(a) Civil penalty proceedings, including hearings, will be prosecuted only by an agency attorney, except to the extent another agency official is permitted to issue and prosecute civil penalties under § 1503.421 of this part.

(b) An agency employee engaged in the performance of investigative or prosecutorial functions in a civil penalty action must not, in that case or a factually related case, participate or give advice in a decision by the ALJ or by the TSA decision maker on appeal, except as counsel or a witness in the public proceedings.

(c) The Chief Counsel or an agency attorney not covered by paragraph (b)

of this section will advise the TSA decision maker regarding an initial decision or any appeal of a civil penalty action to the TSA decision maker.

§ 1503.605 Appearances and rights of parties.

(a) Any party may appear and be heard in person.

(b) Any party may be accompanied, represented, or advised by an attorney or representative designated by the party and may be examined by that attorney or representative in any proceeding governed by this subpart. An attorney or representative who represents a respondent and has not previously filed a pleading in the matter must file a notice of appearance in the action, in the manner provided in § 1503.429, and must serve a copy of the notice of appearance on each party, in the manner provided in § 1503.409, before participating in any proceeding governed by this subpart. The attorney or representative must include the name, address, and telephone number of the attorney or representative in the notice of appearance.

§ 1503.607 Administrative law judges.

(a) *Powers of an ALJ.* In accordance with the rules of this subpart, an ALJ may:

(1) Give notice of, and hold, pre-hearing conferences and hearings.

(2) Issue scheduling orders and other appropriate orders regarding discovery or other matters that come before him or her consistent with the rules of this subpart.

(3) Administer oaths and affirmations.

(4) Issue subpoenas authorized by law.

(5) Rule on offers of proof.

(6) Receive relevant and material evidence.

(7) Regulate the course of the hearing in accordance with the rules of this subpart.

(8) Hold conferences to settle or to simplify the issues on his or her own motion or by consent of the parties.

(9) Rule on procedural motions and requests.

(10) Make findings of fact and conclusions of law, and issue an initial decision.

(11) Strike unsigned documents unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(12) Order payment of witness fees in accordance with § 1503.649.

(b) *Limitations on the power of the ALJ.*

(1) The ALJ may not:

(i) Issue an order of contempt.

(ii) Award costs to any party.

(iii) Impose any sanction not specified in this subpart.

(iv) Adopt or follow a standard of proof or procedure contrary to that set forth in this subpart.

(v) Decide issues involving the validity of a TSA regulation, order, or other requirement under the U.S. Constitution, the Administrative Procedure Act, or other law.

(2) If the ALJ imposes any sanction not specified in this subpart, a party may file an interlocutory appeal of right pursuant to § 1503.631(c)(3).

(3) This section does not preclude an ALJ from issuing an order that bars a person from a specific proceeding based on a finding of obstreperous or disruptive behavior in that specific proceeding.

(c) *Disqualification.* The ALJ may disqualify himself or herself at any time. A party may file a motion, pursuant to § 1503.629(f)(6), requesting that an ALJ be disqualified from the proceedings.

§ 1503.609 Complaint.

(a) *Filing.* The agency attorney must file the complaint with the Enforcement Docket Clerk in accordance with § 1503.429, or may file a written motion pursuant to § 1503.629(f)(2)(i) instead of filing a complaint, not later than 30 days after receipt by the agency attorney of a request for hearing. The agency attorney should suggest a location for the hearing when filing the complaint.

(b) *Contents.* A complaint must set forth the facts alleged, any statute, regulation, or order allegedly violated by the respondent, and the proposed civil penalty in sufficient detail to provide notice of any factual or legal allegation and proposed civil penalty.